

HD RADIO CONTENT PROTECTION ACT OF 2005

109TH CONGRESS
1ST SESSION

To amend title 35, United States Code, to implement usage rules and to prevent disaggregation of certain audio content.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Title I. FEDERAL COMMUNICATIONS COMMISSION

Section 101. Federal Communications Commission. The Federal Communications Commission -

(a) has authority to adopt such regulations governing digital audio broadcast transmissions and digital audio receiving devices that are appropriate to control the unauthorized copying and redistribution of digital audio content by or over digital reception devices, related equipment, and digital networks, including regulations governing permissible copying and redistribution of such audio content necessary to address issues such as those under consideration in the proceeding on the Notice of Inquiry In the Matter of Digital Audio Broadcasting Systems and their Impact on the Terrestrial Radio Broadcast Service, MM Docket No. 99-325, provided, however, that adoption of any digital audio regulations pursuant to this section shall not delay the adoption of final operational rules for digital audio broadcasting; and

(b) may reconsider, amend, repeal, supplement, and otherwise modify any such regulations and certifications, including those identified in paragraph (a) of this section, in whole or in part for such purposes.

Section 102. Savings Clause.

The Federal Communications Commission may implement regulations for digital audio broadcast transmissions, provided that such rules are consistent with Title 17, United States Code.

TITLE II. SECTION 114 AMENDMENTS

Section 201. Title 17, United States Code, is amended as follows:

(1) by striking Section 114(d)(2)(B) and the preamble to Section 114(d)(2)(C)

(2) by redesignating Sections 114(d)(2)(A)(i) through (iii) as Sections 114(d)(2)(A) through (C).

(3) by redesignating Sections 114(d)(2)(C)(i) through (ix) as Sections 114(d)(2)(D) through (L).

(4) by striking in Section 114(d)(2)(H) “, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed by the Federal Communications Commission, on or before July 31, 1998”.

(5) by striking in Section 114(d)(2)(K) “, except that the requirement of this clause shall not apply to a satellite digital audio service that is in operation, or that is licensed under the authority of the Federal Communications Commission, on or before July 31, 1998, to the extent that such service has designed, developed, or made commitments to procure equipment or technology that is not compatible with such technical measures before such technical measures are widely adopted by sound recording copyright owners”.

(6) by striking in Section 114(d)(2)(L) “shall not take effect until 1 year after the date of the enactment of the Digital Millennium Copyright Act and” and “, or in the case in which devices or technology intended for receiving the service provided by the transmitting entity that have the capability to display such textual data are not common in the marketplace”.

(7) by striking Section 114(d)(2)(I) and inserting “(I) the transmitting entity takes no affirmative steps to authorize, enable, cause or induce the making of a phonorecord by the transmission recipient and uses reasonably available technology to prevent copying of the transmission, except for permitted recording;”

(8) by inserting after Section 114(j)(15) “(16) “Permitted recording” means recording of a performance licensed under this section where technological measures used by the transmitting entity and incorporated into the recording device –

“(A) permit recording only of specific programs, channels or time periods as selected by the user in increments of no less than thirty minutes duration, where no more than 50 hours of recorded material is stored at any one time, and recorded material is deleted or otherwise made inaccessible on a first-in, first-out basis;

“(B) do not permit recording or playback based on information concerning specific sound recordings, artists, genres or other user preferences;

“(C) do not permit the automated disaggregation of the copyrighted material contained in any recording of a transmission program;

“(D) effectively prevent access to the recorded material other than as described in this paragraph; and

“(E) do not permit the redistribution, retransmission or other exporting of recorded material from the device by digital outputs or removable media.